

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----X
4 CHITRA KARUNAKARAN,

Case No.: 18-CV-10723

5 *Plaintiff,*

SECOND AMENDED COMPLAINT

6 -against-

JURY DEMAND

7 BOROUGH OF MANHATTAN COMMUNITY
8 COLLEGE, CITY UNIVERSITY OF NEW YORK,
9 ANTONIO PEREZ, KARIN WILKS, SANGEETA
10 BISHOP, RIFAT SALAM, ANTIONETTE McKAIN,
11 ROBERT DIAZ, IAN WENTWORTH, MICHAEL
12 HUTMAKER, MARVA CRAIG,

13 *Defendants.*
14 -----X

15 Faculty Plaintiff, Dr. Chitra Karunakaran, Ed.D. (“Plaintiff”), appearing Pro se,
16 respectfully requests ALL Defendants, named above, to first acknowledge and then
17 work collectively and with integrity to redress the academic and behavioral harm
18 done to one [1] freshman student (hereinafter “Student”) through an intentionally
19 structured morass of racially charged, discriminatory, bureaucratic entanglements
20 and mis-perceived ‘turf’ privileges across offices, departments and personnel, that
21 causally produced an entirely undesirable, racially charged discriminatory outcome
22 for both Plaintiff and Student, in 16 weeks of a Spring semester, 2018.

23 **INTRODUCTION**

24 1. This action seeks to assert the rights and corresponding
25 professional obligations of Plaintiff, a Psychology and Sociology

26 Professor at BMCC, who was subject to hostile and discriminatory
27 workplace conditions and interactions and became the subject of
28 discriminatory retaliation.

29 2. This renewed action focuses upon and releases, mainly
30 contemporaneously recorded data evidence, by Plaintiff of events in her
31 class and office in Spring 2018, as well as extensive data contained in
32 email communication with Defendants' on acts of unlawful
33 discrimination and retaliation, based on Plaintiff's race, national origin,
34 and age in violation of Title VII of the Civil Rights Act of 1964, 42
35 U.S.C. 2000 et seq., The Age Discrimination in Employment Act
36 ("ADEA") 29 U.S.C. § 621 et seq., The Executive Law of the State of
37 New York, New York State Human Rights Law ("Executive Law"), §
38 296 et seq., the Administrative Code of the City of New York, New
39 York City Human Rights Law ("Administrative Code") § 8-101 et seq.

40 PROCEEDINGS TO DATE

- 41 3. Plaintiff filed a charge of discrimination with the New York State Division of
42 Human Rights, August 13, 2018.
- 43 4. The charge reached EEOC, issued a Right to Sue letter to Plaintiff, August 21, 2018
- 44 5. Plaintiff filed a Pro Se complaint in this Court, November 15, 2018.
- 45 6. Plaintiff was previously represented by an attorney

7. Defendants' Motion to Dismiss was granted February 12, 2021

8. Plaintiff was given leave to amend her Complaint, she requested and was granted an extension, until May 3, 2021.

9. Plaintiff filed a Notice of Pro se Appearance April 22, transaction was entered April 23, 2021

JURISDICTION AND VENUE

10. This Court has jurisdiction over Plaintiff's federal claim pursuant to 28 U.S.C. § 1331 and 42 U.S.C. §§ 2005(f)(1), 5(f)(3), and supplemental jurisdiction over the State and City law claims pursuant to 28 U.S.C. § 1367.

11. As the Southern District is the district where a substantial part of the events giving rise to the claims occurred, venue is proper with this district pursuant to 28 U.S.C. § 1391(a)(2).

PARTIES

12. Plaintiff is a "person" within the meaning of Executive Law § 292(1), and within the meaning of New York City Administrative Code § 8-102(1).

13. Plaintiff is a 75-year immigrant female of Indian national origin within the Federal definition AAPI

14. Defendant, Borough of Manhattan Community College is a division of City University of New York and is a community college in New York City located at 199 Chambers Street New York, New York 10007.

15. Plaintiff had been employed as a Psychology and Sociology Professor with BMCC for approximately 20 years until May 11, 2018.

16. Defendant Wilks is employed as the current Interim President of BMCC.

17. Upon information and belief, during all relevant times herein, Defendant Wilks was a decision-maker as to matters of faculty hiring, retention and termination.

18. Defendant Perez was employed by BMCC as the previous President of BMCC.

19. Upon information and belief, during all relevant times herein, Defendant Perez was a decision-maker as to matters of faculty hiring, retention and termination.

20. Defendant Bishop is employed as the Chair of the Social Sciences Department, BMCC

21. Upon information and belief, during all relevant times herein, Defendant Bishop was a decision-maker in matters of faculty hiring, retention and termination.

22. Defendant Salam is employed as the Deputy Chair, supervises Adjunct Faculty, BMCC

23. Upon information and belief, during all relevant times herein, Defendant Salam was a decision-maker in matters of faculty hiring, retention and termination.

24. Defendant McKain is employed as the Director of Evening/Weekend and Off-Site Programs at BMCC.

25. Upon information and belief, during all relevant times herein, Defendant McKain was a decision-maker as to matters of faculty hiring, retention and termination.

26. Defendant Diaz is Vice President of Legal Affairs, conducts Grievances, heads Office of Human Resources, BMCC

27. Upon information and belief, during all relevant times herein, Defendant Diaz was a decision-maker as to matters of faculty hiring, retention and termination.

94 28 Defendant Wentworth is employed in the Office of Student Affairs as Student Life
95 Manager for Student Conduct and Academic Integrity, BMCC to deliver behavioral
96 and academic integrity services to students through BART Behavioral Assessment
97 Response Team, established in 2012 under BMCC President Antonio Perez,
98 Defendant

99 29. Upon information and belief, during all relevant times herein, Defendant
100 Wentworth was a decision-maker in matters of “Student Conduct and Academic
101 Integrity”, BMCC.

102 30. Defendant Hutmaker is employed as the Dean of Student Affairs, BMCC.

103 31. Upon information and belief, during all relevant times herein, Defendant Hutmaker
104 was a
105 decision-maker in student matters.

106 32. Defendant Craig is employed as the Vice President of Student Affairs at BMCC.
107 Defendant Craig was highly accessible to students and faculty before BART, under
108 President Perez, implemented a distancing mechanism that thwarted and impaired
109 student academic success efforts of faculty

110 33. Upon information and belief, during all relevant times herein, Defendant Craig was a
111 decision-maker as to student matters.

112 34. Plaintiff’s Note: On May 16, **2008 before** BART was implemented **2012**, under
113 Defendant Perez, Dean Craig was most accessible to this Plaintiff, in the matter of an
114 older male Puerto Rican studentJ He was walking extremely unsteadily and singing
115 loudly inside the A train station. I recognized him. I said, “Hi J....” he smiled then his

face became serious, and he said ""You will pay. You (will) lose your job. I know important people."

Plaintiff left the station, returned to BMCC Chambers Street and went straight to Student Affairs. That student was justified to feel concerned, in Plaintiff's view, because he had twice failed the course, previously with another professor and then with Plaintiff, however his conduct, off-campus and inside a public access facility, was inappropriate, potentially inimical to my personal safety and needed immediate attention. Dean Craig resolved the matter that very same evening inside the Office of Student Affairs face to face with Plaintiff. Dean Craig called Dean called "Student J" by telephone, in my and Officer MacLarty's presence. Dean Craig advised StudentJ" **not** to come to class on Monday May 19, 2008 and instead to contact you, Social Sciences Chair Emily Anderson, Dean Craig swiftly addressed the situation while at the same time, supporting this student's concerns, that Plaintiff shared with her. (excerpted from contemporaneous email message to then Social Sciences Chair Emily Anderson 5/18/2008)

JURY DEMAND

35. Pro se Plaintiff herein demands a trial by jury in this action.

36. As Pro se Plaintiff proceeds through the various steps to the jury phase, Plaintiff respectfully indicates, for future consideration by this Court, my anticipated Motion to Compel Discovery of exactly how and why the BART mechanism was deployed to accomplish a two-fold discriminatory outcome that:

[1] prevented, hindered, impeded, obstructed Plaintiff from aiding “Student” facing observable conduct challenges, that were unmediated by BMCC Defendant in change of Student Conduct.

[2] subjected Faculty Plaintiff to racially discriminatory treatment in the course of her professional, contractually secured professional responsibilities to “Student” and ALL students.

FACTS

37. Plaintiff was employed with BMCC for approximately 20 years as a psychology and sociology professor and had always been successfully able to handle her duties and responsibilities including, but not limited to, advising and mentoring students and teaching her. In 20 years of continuous teaching not ONE student has ever complained about her grade, said Plaintiff was ever late for class or had ever disrespected her. In fact, EVERY Student evaluation of my 20-years’ faculty performance contains NO instance of bias or disrespect towards ANY student. This was equally true in Spring 2018. “Student” was the sole, singular instance of a highly deserving Student who fell victim to the BART system and missed succeeding in passing her required course, due to her unmediated conduct issues, by BART under Defendant Wentworth.

38. Faculty Plaintiff respectfully wishes the Judge to note her last Teaching evaluation conducted and completed by Dr Yana Durmysheva described Plaintiff’s teaching as **“superb.”** This vital faculty teaching record, to carry the proper weight and substance in this court, in light of unlawful racialized discrimination in employment

159 and retaliation against protected activity, may please be ordered to be released directly
160 by the Chair of Social Sciences, Defendant Bishop, to the attention of this court.

161 39. On May 11, 2018, Defendant Perez denied Plaintiff's re-appointment for the upcoming,
162 fall 2018, semester, even while his own handpicked CDO Chief Diversity Officer was
163 engaged in investigating my Complaint and directly communicating with me and
164 setting up dates for interviewing me. Due process was denied.

165 40. This denial of was the result of discrimination and retaliation based upon Plaintiff's
166 race, ethnicity national origin, gender and age plus Plaintiff's persistent participation
167 in lawful union activity, during high profile academic years 2017-2018 of the Middle
168 States' accreditation. Plaintiff's whistleblower queries addressed to Defendants
169 Provost Wilks and President Antonio Perez and several others, apparently drew the ire
170 of these same high-level functionaries whom Plaintiff has named as Defendants.

171 41. February 27, 2018 a student in Plaintiff's class initiated a series of verbally and
172 physically aggressive towards Plaintiff disrupted class activities, failed to commence
173 and complete essential assignments. Defendant Wentworth failed to help the Student
174 manage her in-class conduct. Student stopped attending classes 3/27 but stayed online
175 and did no work after 3/27. Staying enrolled and online afforded "Student" the
176 opportunity to submit a faculty evaluation.

177 42. Upon information and belief, the behavior by this student was racially motivated as
178 Plaintiff had taught 4 online classes to this student without any disruption. However,
179 upon information and belief, once this student was present in an "in-person" class, the
180 serial disruptive and aggressive behavior began and continued until she voluntarily
181 stopped attending 3/27, after failing her Midterm.

2/27 “Student” to Plaintiff “You suck. You don’t know anything.” This mocking derogatory demeaning comment was again repeated to my face in classes 2 more times. Student’s serial departures from appropriate conduct intentionally accepted and unmediated by Defendant Wentworth, prevents her from succeeding in her course. Defendant Wentworth was never held accountable for failing to intervene on behalf of “Student”. Plaintiff made 2 suggestions in follow up emails to Defendants. [1] Plaintiff expressed a preference to speak with Student “if she would agree,[2] Plaintiff strongly recommended, during VoE Verification of Enrollment, that “Student’ be offered and recommended to take a 100% online class as she was attending infrequently and would not need to interact in in-class sessions with an Instructor. Neither suggestions were even considered by indication of any reply to my 2 suggestions.

43. Plaintiff made numerous complaints to management, including the Defendants, regarding this student and requested that the OSA remove her from my class. BART’s Wentworth , as a matter of intentional policy ignored the Plaintiff’s reports, took no action to remedy the situation and not only allowed, but actively supported the conduct to repeatedly re-occur. His negatively supportive action was to “close the “case” ““quickly”.

44. 3/22 Dean Erwin Wong, head of Academic Affairs blows open Defendant Wentworth’s “closed” “quickly” “case” He sends a strongly worded message to all defendants and especially Defendant Wentworth, naming him and explicitly tasking him thus:
“The disruptive behavior being described warrants intervention by Mr. Ian Wentworth in Student Affairs, who handles student behavior issues. By way of cc, I am alerting him, and he will act accordingly.”

“Student” apparently was emboldened by Wentworth’s incompetence, matched only by his overconfidence in his own lack of professional judgment, failing as he repeatedly did, to assist

her, **behaviorally**, (Hey the B in BART is for Behavior) unable to assist her to manage her conduct to the extent that she could succeed in passing her required course. The conduct events continue “See detailed Calendar of Discrimination Retaliation Contract Breach”

45. On or about March 27, 2018, the student tried to physically grab papers and other materials away from Plaintiff, exiting Plaintiff’s office rapidly, therefrom, upon learning her midterm score.

46. Plaintiff continued to complain about “Student”’s conduct events to Defendants, but still no action was taken to help the student manage her conduct so that she could succeed. Plaintiff urged that she be offered the option to join a 100% online class wherein her observable conduct could not be performed, by her, to her detriment, of her potential for Student success and future career aspirations.

47. Specifically, Defendants Hutmaker, Craig, and Wentworth, not having membership in Plaintiff’s protected characteristics, might reasonably appear to any potential juror, that each Defendant, separately and together, by acts of omission or commission, discriminated against Plaintiff based upon her race, national origin, and age by completely disregarding their job responsibilities duties and at no point attempting to remedy the ongoing and dangerous situation caused by “Student”. From Plaintiff’s faculty standpoint, the union recommendation of calling Security to escort the student out of class could be potentials damaging to the self-esteem of the Student, particularly in the eyes of her peers and would not incentivize her to choose more appropriate conduct options. “Plaintiff” never once in 20 years had elected to call Security on any “Student.”

227 48. “Student” s serially unmediated conduct culminating in Student’s in-office attempted
228 grabbing of papers **3/27** causes Plaintiff emotional distress. Plaintiff pre-announces
229 and takes two days of pre-announced emergency medical/personal safety leave, **3/29**
230 and **4/10** after not having taken any leave for 20 continuous years of faculty service to
231 BMCC.

232 49. On **3/18**, 2018, Plaintiff filed a formal complaint with Defendant Perez focusing upon
233 the discriminatory, hostile work environment

234 50. Specifically, Plaintiff’s Complaint letter to Defendant Perez 3/18 included complaints
235 regarding the “unchallenged racialized, ageist hostile work environment” that was
236 occurring as a result of Defendants’ actions

237
238 51. Shortly after, on May 11, 2018, Plaintiff was retaliated against and was denied “re-
239 appointment” by Defendants, despite the fact that Plaintiff had been working at BMCC
240 without a service interruption for the past twenty (20) years.

241 52. Plaintiff participates vigorously and proactively in a union that endeavors to promote
242 equity parity and excellence in all matters of Faculty professionalism. More instances
243 follow below, of Plaintiff’s lawful protected activity

244 **FIRST CAUSE OF ACTION (Race and National Origin Discrimination – Federal**
245 **Claim Pursuant to Title VII Against Defendant BMCC and Defendant CUNY)**

246 53, Plaintiff re-alleges and incorporates by reference herein paragraphs 1-53 as set forth
247 above.

248 54. Defendants are employers as defined in Title VII, and at all relevant times herein
249 employed Plaintiff.

55. In violation of 42 U.S.C. § 2000-e(2)(a), Defendants discriminated against Plaintiff based on her race and national origin by terminating Plaintiff and treating her less favorably as compared to similarly situated co-workers. Plaintiff's similarly situated co-workers were not terminated.

56. This discrimination was a result of intentional actions by Defendants and/or deliberative indifference by Defendants to treat Plaintiff differently than similarly situated employees that are not of Plaintiff's race and national origin.

57. As a result of Defendants' discriminatory conduct, Plaintiff has incurred and will continue to incur damages, including but not limited to lost income, emotional distress, and loss of quality of life.

SECOND CAUSE OF ACTION (Age Discrimination- Federal Claims Pursuant to the ADEA)

58. Plaintiff re-alleges and incorporates by reference herein paragraphs 1-57 as set forth above.

59. Defendants are employers as defined in 29 U.S.C. § 630 and at all relevant times herein employed Plaintiff.

60. In violation of the Age Discrimination in Employment Act Defendants discriminate against Plaintiff based on her age by denying her re-appointment and treating her differently than similarly situated employees. She was replaced by a younger Professor with less age-related years of experience and salary and course preference related schedules and location.

61. This discrimination was a result of intentional actions by Defendants and/or deliberate indifference by Defendants to treat Plaintiff differently than similarly situated employees that are not of Plaintiff's race and national origin.

62. As a result of Defendants' discriminatory conduct, Plaintiff has incurred and will continue to incur damages, including but not limited to lost income, emotional distress, and loss of quality of life.

THIRD CAUSE OF ACTION (Race, National Origin, and Age Discrimination – New York State Claim Pursuant to the Executive Law Against all Defendants)

63. Plaintiff re-alleges and incorporates by reference herein paragraphs 1-62 as set forth above.

64. Defendants are employers as defined in Executive Law § 292(5) and at all relevant times herein employed Plaintiff.

65. Plaintiff is an employee within the meaning of Executive Law § 292(6).

66. In violation of Executive Law § 296, Defendants discriminated against Plaintiff based on her race, national origin, and age by denying her re-appointment and treating her differently and less favorably than similarly situated employees.

67. This discrimination was a result of intentional actions by Defendants and/or deliberate indifference by Defendants to treat Plaintiff differently than similarly situated employees that are not of Plaintiff's race and national origin.

68. As a result of Defendants' discriminatory conduct, Plaintiff has incurred and will continue to incur damages, including but not limited to lost income, emotional distress, and loss of quality of life.

FOURTH CAUSE OF ACTION (Race, National Origin, and Age Discrimination – New York City Claim Pursuant to the Administrative Code Against All Defendants)

69. Plaintiff re-alleges and incorporates by reference herein paragraphs 1-68 as set forth above.

70. In violation of Administrative Code, § 8-101, Defendants discriminated against Plaintiff based on her race, national origin, and age by denying her “re-appointment” and treating her differently and less favorably than similarly situated employees.

71. This discrimination was a result of intentional actions by Defendants and/or deliberate indifference by Defendants to treat Plaintiff differently than similarly situated employees that are not of Plaintiff’s race and national origin.

72. As a result of Defendants’ discriminatory conduct, Plaintiff has incurred and will continue to incur damages, including but not limited to lost income, emotional distress, and loss of quality of life.

FIFTH CAUSE OF ACTION (Retaliation- Federal Claims pursuant to Title VII, ADEA, against Defendant BMCC and Defendant CUNY)

73. Plaintiff re-alleges and incorporates by reference herein paragraphs 1-72 as set forth above.

74. Plaintiff was subjected to retaliation in that she was denied re-appointment solely as a result of her participation in protected activity.

75. As a result of Defendants’ retaliatory conduct, Plaintiff has incurred and will continue to incur damages, including but not limited to lost income, emotional distress, and loss of quality of life.

SIXTH CAUSE OF ACTION (Retaliation- New York State Claim under Executive Law against all Defendants)

76. Plaintiff re-alleges and incorporates by reference herein paragraphs 1-75 as set forth above.

77. Plaintiff was subjected to retaliation in that she was denied re-appointment solely as a result of her participation in protected activity.

78. As a result of Defendants' retaliatory conduct, Plaintiff has incurred and will continue to incur damages, including but not limited to lost income, emotional distress, and loss of quality of life.

**SEVENTH CAUSE OF ACTION (Retaliation- New York City Claim under
Administrative Code against all Defendants)**

79. Plaintiff re-alleges and incorporates by reference herein paragraphs 1-78 as set forth above.

80. Plaintiff was subjected to retaliation in that she was denied re-appointment, resulting from her participation in protected activity.

81. As a result of Defendants' retaliatory conduct, Plaintiff has incurred and will continue to incur damages, including but not limited to lost income, emotional distress, and loss of quality of professional life at a Public university.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be fairly entered against Defendants, jointly and severally, to recover lost Salary, lost Social Security wages, lost Medicare wages, lost tax-deferred wages, at respective face value, estimated at \$95K for each of the following SEVEN Cause(s) of Action including Statement of Honorable Severance from College Service, to be provided by The College

- a. On the First Cause of Action, judgment against Defendants
- b. On the Second Cause of Action, judgment against Defendants
- c. On the Third Cause of Action, judgment against Defendants
- d. On the Fourth Cause of Action, judgment against Defendants
- e. On the Fifth Cause of Action, judgment against Defendants
- f. On the Sixth Cause of Action, judgment against Defendants
- g. On the Seventh Cause of Action, judgment against Defendants

Respectfully submitted

Dr. Chitra Karunakaran Ed.D.

Pro se

Contemporaneous data narratives added to Amended Complaint, as per Judge's

Leave to Amend

Faculty Plaintiff Dr. Chitra Karunakaran Ed.D, pleading pro se brings her Second Amended Complaint for her continuing lawsuit against CUNY, an accredited, TITLE VI funded MSI Minority Serving Institution for “non-reappointment, Plaintiff alleging with detailed factual evidence, [1] Racial Discrimination, [2] Age Discrimination, [3] Retaliation [4] Contractual breach of an active and still ongoing multi-year adjunct faculty appointment through a collective bargaining agreement secured by Plaintiff's union.

Defendant Antonio Perez on 5/11/18 assigns no cause for my “non reappointment”, even after my 20 years’ continuous service, not only because lacks grace and not only because he is under no legal compulsion to assign cause, but because he has NO cause! He could not assign a lawful cause without provoking derisive laughter on [1] and [2] above, to perform a discriminatory employment action. As President of an MSI, specifically an HSI, it is an egregious act that he used his racially privileged position, to unlawfully target me due to my protected characteristics and retaliated against me for my protected union activity (see below). MSI's though designated to meet the needs of significantly represented demographic groups cannot lawfully cherry pick among other underrepresented demographic groups within an MSI to advance and achieve a discriminatory employment action.

Specifically, re: my union activity, Defendant Perez took unlawful retaliatory employment action when he asked his designee Defendant Diaz (another comparator!) to reply me, rather than reply himself, when I prevailed in my questioning and Defendant Karrin Wilks admitted not even 1 adjunct faculty (the majority faculty in numbers and in numbers of courses taught across C was represented on his Equity and Inclusion **Task Force (11/2017]**

“Equity” without representation?

“Inclusion” without representation?

All faculty regardless of appointment, are comparators. The central fact of comparator status is we teach the **same** students. Any potential juror might reasonably conclude that excluding some faculty, on the basis of their undeserved inequity, does **not** accomplish equity! Task Forces are not routine academic committees. A Task Force by definition is tasked to accomplish a needed improvement, that is challenging to accomplish, without direct participation by a diverse array of stakeholders, bringing multiple perspectives to a collective enterprise, in particular a public entity, CUNY, receiving Federal funding by specific statute, as in the case of an MSI, BMCC

Plaintiff learned, never once in person or by telephone, but solely and exclusively from dismissive, punitively worded, emails that contained allegations and unfounded assertions by 2 named Defendants, Professors Bishop and Salam, Social Sciences, that Plaintiff’s 20- year continuous, uninterrupted and invited contractual service would be (albeit discriminatorily, arbitrarily and summarily) terminated.

These 2 Defendants in the Department of Social Sciences asserted action was taken by them, against Plaintiff, because:

[1] Plaintiff taught her students 4 online interactive classes (out of 32 classes), during one (1) 16-week semester, Spring 2018,

[2] Plaintiff drew attention to the conduct of “Student” by contacting Office of Student Affairs, and that Plaintiff failed to manage this 1 student’s repeated non-compliance with signed and agreed upon Syllabus requirements between each Student and Plaintiff. Plaintiff asserts that since named Defendants in the Office of Student Affairs had established a BART Behavioral Assessment Response Team mechanism, operating since 2012, for monitoring and modifying student conduct, any Professor, under the above- referenced dispensation of BART, is not permitted to take any action re: students’ conduct, except **refer** any student, to OSA/BART for timely effective intervention, by OSA/BART.

Judge, let it be noted [1] and [2] above, comprise the sum and substance of Department of Social Sciences’ discriminatory employment action against Plaintiff.

On [1] Plaintiff argues that she followed all specific and general guidelines set forth in the Adjunct Faculty Handbook version obtaining in Spring 2018. The Adjunct Faculty Handbook 2018 is the prime contractual instrument that defines adjunct faculty teaching service to the college and the university during any semester including Spring 2018. This same Adjunct Faculty Handbook in its opening comprehensive statement says:

“Expectations for Adjunct Faculty
Adjunct faculty are expected to strive for excellence in teaching. BMCC’s highest priority is to improve student success, so all faculty are encouraged to develop effective pedagogy. BMCC’s student population is culturally and linguistically diverse, many of whom are the first in their families to attend college; research shows that our students benefit from active engagement both inside and outside the classroom. All faculty are required to submit verification of attendance, final grades, and any other required information on time. All faculty are required to use their BMCC email and check it regularly. Faculty are encouraged to use the wide range of resources available to support academic excellence and to share their own expertise in the spirit of contributing to a vibrant learning community and to BMCC’s commitment to student success.”

On [1] Plaintiff further argues that 4 out of 32 classes in a 16-week semester emphatically do not constitute an online course, by BMCC’s own definition. First, Blackboard is available to

ALL faculty. Second, BMCC itself has noted 2 (two) definitional criteria for online teaching in any semester:

“Hybrid” courses are taught 50% online

“Fully online” courses are taught 100% online.

In a decade, when all colleges are scrambling to provide increased online instruction to students (who often are far ahead of faculty in their use of applications, platforms, architecture and digital environments) BMCC was concerned that my students got 4 classes of intensive assigned readings and in-textbook research, for beginning students who only ‘read’ their smartphone screens! A Pathways Psychological Science course urgently needs to encourage reading and writing in a sustained manner at the student’s own pace with in-built movement from assignment to assignment. My students, because they read researched and wrote intensively for 4 online sessions, undisturbed and interacting with Plaintiff, expressed surprise that there so many “ideas” meaning theorists and theoretical perspectives about the Science of Behavior” “PSYScience of *i*” (my own coinage) is the science closest to our beginning students’ own personalities and daily lives, when they study STEM courses.

My syllabus delivery in Spring 2018 was neither hybrid nor fully online, as proven by the fact, alleged and acknowledged by named Defendant Bishop, chair Social Sciences that I taught 4 out of 32 classes online.

One-eighth of all classes is not 50% and certainly not 100%.

Therefore, employment termination, on the basis of [1] violates my union contractual obligation of syllabus delivery as per Adjunct Faculty Handbook applicable to all adjunct faculty.

Further elucidating [1], “Lecture Format” frequently includes Face-to-Face [FtF] classes in which no lecture occurs. A PowerPoint presentation or a video or movie, sometimes for the

entirety of the class period, in a darkened classroom where no active engagement occurs, is Syllabus delivered without a “Lecture” by the Professor. A field trip to a museum or even taking the class to a union demonstration against an adverse CUNY budget measure, by the Board of Trustees (BoT) in which students and teacher are both engaged outside a seated physical classroom does not involve Lecture format. In fact, it is valuable at certain critical points in Syllabus delivery, especially if a teacher wants students to read pages pre-assigned twice weekly, use critical reasoning to demonstrate their understanding of a particular theorist’s perspective, as well as to develop and present their own point of view, for every assigned reading. Online Syllabus delivery, after the first 3-4 successive, in-person, intensive FtF classes, allows students (even those who enter late) to start working immediately in an individualized, focused way, with the help of the professor and/or their peers; interact with their peers to discuss their academic interests and future job aspirations related to their course readings, despite a highly disruptive extended enrollment period in recent years, including Spring 2018, favored by then College President (a named Defendant) in which Enrollment is touted and aggressively carried out, at the expense of student Attendance, the latter being a state-mandated requirement, for continued funding.

The plausible reasons for a disruptive extended enrollment strategy are possibly executive compensation raises awarded to College Presidents for a variety of criteria, including, possibly enrollment. One significant event that I have noticed every semester, including Spring 2018, is that there is a fall-off in Attendance **after** students receive their federal Pell grants! Something to investigate for USDoE.

The point of this detailed explanation is to show that students who enter class on the first day of class, ready to work, are not penalized by distractions or by late enrolling late arriving, or

suddenly departing, students who needed to change or drop courses for a variety of factors, often beyond their control.

Case in Point: “Student” according to the on-site campus adviser, the late Peter Roberts told Plaintiff that “Student” enrolled on the very last day of enrollment. By the time “Student” entered my course, she had become a casualty of the College President’s enrollment policy, missing the first 3 Face to Face intensive interactive Lecture Format classes, of a Pathways Science course in Psychology that is required, to graduate.

I affirm from direct lived experience in my classroom during Spring semester 2018, “The Student” was not even minimally well served from the beginning to the end of her enrollment (with lack of Attendance) in my course, by either Social Sciences or Office of Student Affairs or indeed the College President. “Plaintiff” holds them collectively accountable for not serving this Student and possibly, others. The College President left BMCC service almost immediately thereafter, so it was not possible to query him on negligence of service to “The Student.” No true teacher is content, unless every student in every one of her classes is served. “The Student” deserved substantially better conduct support from OSA/BART, so she could become a successful learner.

Defendant Bishop, Chair, Social Sciences violated Article 20. **Intent** of the collective bargaining agreement on 2 counts:

She pre-emptively stated in an email 2/27 that instructing my students through rigorous reading and response online 4 out of 32 classes was “grounds for non-reappointment” Plaintiff found no such pre-emptive provision in the union contract or the Adjunct Faculty Handbook

Defendant Bishop then emailed me to provide “immediate assurance” that I would teach my classes in person. I was delighted to do so. After I provided that “immediate assurance” within

hours, in a turnaround email that very same day **2/27**, she ignored my response. It was as if I had never given her and other high-level functionaries that required and happily provided “immediate assurance.” I received no follow up email acknowledgment from Defendant Bishop that she had either accepted or rejected my readily proffered “immediate assurance.”

Article 20.1 Intent:

“The parties agree to use their best efforts to encourage the informal and prompt settlement of complaints and grievances which may arise between the PSC, the employees, and the University. The orderly processes hereinafter set forth will be the sole method used for the resolution of all complaints and grievances.”

Defendant Bishop instead, went straight for the jugular, alleging in her very first email to me, dated 2/27 that teaching 4 classes online out of 32 is “grounds for non-reappointment.” This pre-emptive overkill style of leadership without concerns for required due process had gotten Defendant Bishop into trouble before in a case 16-cv-10562 filed against her by a male white self-ascribed Latino professor in my same department just 2 years earlier, wherein he stated that a Black student called him “a d....k” in front of the entire class.” That Plaintiff asserted Defendant Bishop stated to him “How can I be racist? I am the victim of racism.” Subsequent racial discrimination against him by Defendant Bishop, followed. The case presided over by senior district judge William Pauley III dismissed the case with Prejudice against Defendant Bishop and Defendant President Perez. This aggrieved professor (whom I have never met or interacted with in any way) was terminated 2016, when the College called Security on him and he was escorted out of his own classroom. He had taken the action of calling Security on a racially offensive Student.

“Plaintiff” similarly alleges that “Student” in my afternoon Section #1500 class, racially profiled Plaintiff, upon first meeting me, face to face with the words “You suck. You don’t know anything.” As an Asian with Indian ethnicity, foreign born brown immigrant, it is reasonable for me or any potential juror to adduce that she took in the **totality** of my protected physical

characteristics, and body language in that few moments when she made the statement in front of approx. 6-8 attending students at the end of class 2/27. She made this same statement again on 2 other occasions to me in class. It would be reasonable for me or any potential juror to adduce that this student, bigger and certainly stronger than I, was reasonably certain, relying on prevailing racialized stereotypes (even if these stereotypes are positive), about Asians, I would remain silent in the face of her mocking verbal abuse, would not confront her or call Security for her removal. I reported her unacceptable statement instead, later that day, after due consideration, to the office of Student Affairs. Defendant Wentworth of OSA. Apparently, he did not think it was necessary to inform Plaintiff that he had the student sign some “some forms” and even later to disclose to me that he had “closed the case” “quickly” **3/13**. I was not informed until THREE weeks later **4/6, long after midterms**

This signing of “some forms” given to her by Defendant Wentworth, **3/13** apparently emboldened “Student” to continue to attend highly infrequently a few more classes during which she repeatedly disrupted my class (she stopped attending when she failed her midterms but stayed online, did no further Syllabus assignments, avoided being observed by not attending, **3/22** ordered by Dean Erwin Wong of Academic Affairs, entered and left multiple times my class **3/13**, came into my office **3/27**, attempted to grab midterm exam scans from my left hand, exiting my office abruptly when she learned her score. This last contact incident of **3/27** was observed by an eyewitness, an HEO assigned from Academic Affairs to my offsite campus and upon information and belief is supervised by Defendant Antonette McKain, of Academic Affairs who initially emailed my Department on my 4 classes of online instruction, at CITH.

BMCC Defendants Bishop and Salam violated Plaintiff’s rights and protections under union contract Article 8

537 **Article 8: Non-Discrimination**

538 8.1 Neither the University nor the Union will interfere with, restrain or coerce the
539 employees covered by this Agreement because of membership in or non-membership in or lawful
540 activity on behalf of the Union. Neither the University nor the Union will discriminate in respect
541 to hire, tenure of employment or any terms or conditions of employment of any employee covered
542 by this Agreement because of sex, race, national origin, religion, sexual orientation, political belief
543 or membership in, or lawful activity on behalf of the Union. The University and the Union shall
544 comply with applicable provisions of federal, state and municipal laws and ordinances regarding
545 discrimination in employment because of age or because of disability.

546
547 I assert I was discriminated on the basis of my lawful, protected union activity of
548 employment.

- 549 1. Defendant Perez violated provisions for hiring and retention of adjunct faculty during
550 the 5 year “pilot phase” by discriminatory “non reappointment” Pilot” by definition
551 means that decisions and actions are taken after conclusion of the pilot, which is an
552 experimental study phase, before a plan is formulated, unless the pilot is suspended. It
553 was not.

554 **Multi-year Appointments for Teaching Adjuncts**

555 **June 16, 2016**

- 556 1. The parties will enter into a **pilot** program for **five academic years** beginning with
557 the 2016-2017 academic year through the end of the **2020-2021** academic year.
558 **Three-year** appointments made within the five-year period shall remain in effect
559 for the term of each appointment. The parties will meet no later than June 30,
560 2020, to determine whether to continue the pilot program as specified in this

Agreement or to modify the pilot program. If the parties are unable to agree to continue or to modify the pilot program, the terms regarding adjunct appointments will revert to those expressed in the 2007-2010 collective bargaining agreement..

2. An employee who has served as a teaching adjunct and who has taught at least **six** (6) contact teaching hours per semester within the same department of the college for the **10** most recent consecutive semesters (excluding summer sessions) preceding the effective date of the three-year appointment **shall be considered for a three-year appointment**, subject to the comprehensive review and assessment referenced in paragraph "4" below. Up to four semesters of substitute service in a teaching title within the same department of the college may be counted as qualifying service. **The first three-year appointments** shall begin in the Fall 2017 semester and will continue to be available starting in each fall semester through Fall 2020. Adjuncts shall be notified on or before May 15 concerning appointment or non-reappointment for a three-year period.

In rare instances in which a department Personnel and Budget Committee determines that an eligible adjunct will not be reappointed to a three-year appointment but could benefit from a one-year appointment and additional guidance, the adjunct shall be appointed to a one-year appointment. At the end of the one-year appointment, the adjunct must be considered for a three-year appointment.

3. As a **one-time transition due** to the implementation of this *pilot* program, those adjuncts who have taught at least **six** (6) classroom contact hours per semester within the same department at the same college for **14 out of the last 18 consecutive semesters** (excluding summer sessions) **preceding the 2016-17** academic year including the four semesters (excluding summer sessions) **immediately preceding the 2016-17** academic

year and who are eligible for a two-semester appointment for the **Fall 2016 and Spring 2017** semesters under Article 10.1.(a)3., -- shall receive a two-year appointment for the **2016* 17 and 2017-18** academic years, without the necessity of a comprehensive review, but subject to **sufficiency of registration and changes in curriculum**. Up to four semesters of substitute service in a teaching title within the same department of the college may be counted as qualifying service. An adjunct who believes that he/she meets the eligibility requirements for this two-year appointment must file a notice of interest with his/her department chair no later than **October 15, 2016**. Filing a notice of interest shall be a precondition to receiving consideration for a two-year appointment. It is understood that adjuncts who receive these initial two-year appointments will receive a comprehensive review during said period and will be considered for a three-year appointment effective beginning in the **2018-19** academic year, on the same basis as other adjuncts, as set forth in paragraph "4" below. Adjuncts who file a notice of interest shall be notified on or before **February 1, 2017**, confirming their appointment to a two-year appointment or notifying them of their lack of eligibility therefor.

4. **To receive a three-year appointment, an adjunct who meets the service requirements must receive the positive recommendation of his/her department P&B committee and of the college President, or his/her designee [e.g., Provost, Dean]. The recommendations shall be based upon a comprehensive review of the adjunct's performance and the fiscal and programmatic needs of the department and/or the college.**

5. Adjuncts who receive three-year appointments shall be considered for a subsequent three-year appointment, subject to a comprehensive review of the adjunct's performance and an assessment of the fiscal and programmatic needs of the department and/or the college, as referenced in paragraph "4" above. Consistent with paragraph "2" above, if an adjunct serving in a three-year appointment is appointed to teach as a substitute in the same department of the college within the three-year period, such substitute appointment shall not serve to disqualify the adjunct from consideration for

another three-year appointment as an adjunct at the conclusion of the current three-year appointment period or thereafter, if the substitute appointment continues beyond the conclusion of the current three-year appointment period but ends within the pilot period. Consistent with section.

6. **6.4.d of the Bylaws of the Board of Trustees, there is no presumption of continuous appointments. Adjuncts shall be notified on or before May 15th of the third year of their current three-year appointment concerning reappointment or non-reappointment for a successive three-year period.**

7. **During the three-year appointment period, the adjunct shall follow existing departmental policies regarding student evaluations; it is understood that the weight to be accorded student evaluations in the comprehensive review process is a matter of academic judgment. At least one 50-minute teaching observation shall be conducted during the three-year period, [Social Sciences failed to undertake teaching observations]**

8. During the three-year appointment period, the adjunct shall be assigned a **minimum of six (6)** classroom contact hours in each Fall and Spring semester but shall have no entitlement to a particular course(s) or schedule.

9. Should a department be unable to offer an adjunct a minimum of six (6) classroom contact hours in a given semester, the department chair shall offer the adjunct either:
A) an academically appropriate non-teaching adjunct appointment in the current semester for an equivalent number of hours at the non-teaching rate; or B) an additional teaching assignment of the number of hours of the contact hour deficit within the following two semesters or summer session. For those adjuncts who receive their primary health insurance by virtue of their adjunct employment at the college and who would lose the health insurance if their assignment at the college fell below six (6) contact hours in any given semester, department chairs shall make every effort to give such adjunct a nonteaching assignment in the same semester as the contact hour deficit sufficient to maintain health insurance; for these purposes only, one non-teaching hour shall be deemed equivalent to ().4 teaching contact hour.

A semester in which an adjunct's workload falls below six (6) contact hours for reasons other than his/her declination to teach continues to count as 6 contact teaching hours of service toward eligibility for the following: subsequent three-year adjunct appointments; movement in salary schedule (Article 24.2.(b)); waiver of tuition (Article 29.3); Adjunct Professional Development Fund (Appendix B).

10. An adjunct may discuss with his/her department chair his/her course and scheduling preferences. The department chair may consider the adjunct's expressed preferences - just as the expressed preferences of full-time faculty are considered -- but the department chair retains the final authority to determine who will be assigned to teach which courses and when the courses will be offered. If an adjunct declines to teach more than one course as assigned by the department chair during the three-year period, the three-year appointment shall be considered null and void.

Notwithstanding the above, an adjunct serving in a three-year appointment may seek to be excused for up to one semester upon the submission of documentation satisfactory to the college's Office of Human Resources establishing the need for such owing to 1) the adjunct's own illness; 2) the need to care for an ill member of the adjunct's immediate family; 3) the need to care for a newborn child or a newly adopted child, adopted at up to five (5) years of age; or 4) receipt of an academic grant or fellowship that involves fulltime commitment or absence. If approved, such one-semester break in service shall not serve to disqualify the adjunct from consideration for another three-year appointment at the conclusion of the current three-year appointment.

11. Adjuncts who receive a [two-year] or three-year appointment under this provision will earn 12 contact hours per year of personal illness/emergency leave, which may be accrued up to a maximum of [36 contact hours] Adjuncts who are reappointed to a three-year appointment may carry over up to 36 contact hours of leave. An adjunct is

not entitled to carry over the leave to an appointment other than a three-year appointment, nor is an adjunct entitled to receive a payout for unused days.

I 1 . Adjuncts who receive a three-year appointment continue to be subject to discharge for just cause, subject to the Grievance and Arbitration article (Article 20) and not to Article 21 of the collective bargaining agreement.

BMCC and CUNY violated due process requirements of CUNY's EO and ND.

Any potential juror's careful reading of "THE CITY UNIVERSITY OF NEW YORK POLICY ON EQUAL OPPORTUNITY AND NON DISCRIMINATION" as obtaining in the year of Spring 2018, might reasonably infer that Defendant President Perez did not follow the mandated requirements for due process contained in this document and actually terminated Plaintiff's service while the CDO was investigating [Pages 1-17 appended]

Plaintiff alleges that Defendant Perez egregiously violated due process provisions, filing provisions, data gathering provisions of **CUNY own EO&ND Policies and Procedures**, in all procedural details by **terminating** my service while his hand-picked CDO had not even begun begun collecting data in real time on my Complaint filed with her Office **3/18**.

Plaintiff further respectfully requests this court to order Defendant Perez to provide proof that an investigation was conducted as per CUNY own EO&ND and a report was released. No such report, nor even a required Complaint FORM was ever given to this Plaintiff, for filing and submission by Plaintiff to CUNY.

I. Policy on Equal Opportunity and Non-Discrimination

692 The City University of New York (“University” or “CUNY”), located in a historically
693 diverse municipality, is committed to a policy of equal employment and equal access in its
694 educational programs and activities. Diversity, inclusion, and an environment free from
695 discrimination are central to the mission of the University.

696
697 It is the policy of the University—applicable to all colleges and units— to recruit, employ,
698 **retain**, promote, and provide benefits to employees (including paid and unpaid interns) and to
699 admit and provide services for students without regard to **race, color, creed, national origin,**
700 **ethnicity**, ancestry, religion, **age**, sex (including pregnancy, childbirth and related conditions),
701 sexual orientation, gender, gender identity, marital status, partnership status, disability, genetic
702 information, alienage, citizenship, military or veteran status, status as a victim of domestic
703 violence/stalking/sex offenses, unemployment status, or any other legally prohibited basis in
704 accordance with federal, state and city laws.¹

705
706 It is also the University’s policy to provide reasonable accommodations when appropriate
707 to individuals with disabilities, individuals observing religious practices, employees who have
708 pregnancy or childbirth-related medical conditions, or employees who are victims of domestic
709 violence/stalking/sex offenses.

710
711 This Policy also prohibits retaliation for reporting or opposing discrimination or
712 cooperating with an investigation of a discrimination complaint.

713 Prohibited Conduct Defined

Discrimination is treating an individual differently or less favorably because of his or her protected characteristics—such as race, color, religion, sex, gender, national origin, or any of the other bases prohibited by this Policy.

As a public university system, CUNY adheres to federal, state and city laws and regulations regarding nondiscrimination and affirmative action. Should any federal, state or city law or regulation be adopted that prohibits discrimination based on grounds or characteristics not included in this Policy, discrimination on those additional bases will also be prohibited by this Policy.

Retaliation is adverse treatment of an individual because he or she made a discrimination complaint, opposed discrimination, or cooperated with an investigation of a discrimination complaint.

II. Discrimination and Retaliation Complaints

The City University of New York is committed to addressing discrimination and retaliation complaints promptly, consistently and fairly. There shall be a Chief Diversity Officer at every college or unit of the University, who shall be responsible for, among other things, addressing discrimination and retaliation complaints under this Policy. There shall be procedures for making and investigating such complaints, which shall be applicable at each unit of the University.

IV. Responsibility for Compliance

The President of each college of the University, the CUNY Executive Vice Chancellor and Chief Operating Officer, and the Deans of the Law School, Graduate School of Journalism, School of Public Health and School of Professional Studies and Macauley Honors College, have ultimate responsibility for overseeing compliance with these policies at their respective units of the University. In addition, each vice president, dean, director, or other person with managerial

responsibility, including department chairpersons and executive officers, must promptly consult with the Chief Diversity Officer at his or her college or unit if he or she becomes aware of conduct or allegations of conduct that may violate this policy. All members of the University community are required to cooperate in any investigation of a discrimination or retaliation complaint.

Part of Policies and Procedures adopted and approved effective November 27, 2012, Cal.No.4; and revised policy amended and adopted December 1, 2014, Cal. No. C., with effective date of January 1, 2015; Cal. Item C.

COMPLAINT PROCEDURES UNDER THE CITY UNIVERSITY OF NEW YORK'S POLICY ON EQUAL OPPORTUNITY AND NONDISCRIMINATION¹

1. Reporting Discrimination and/or Retaliation

The University is committed to addressing discrimination and/or retaliation complaints promptly, consistently and fairly. Members of the University community, as well as visitors, may promptly report any allegations of discrimination or retaliation to the individuals set forth below:

A. Applicants, employees, visitors and students with discrimination complaints should raise their concerns with the Chief Diversity Officer at their location.

C. There are separate procedures under which applicants, employees, visitors and students may request and seek review of a decision concerning reasonable accommodations for a disability, which are set forth in CUNY's Procedures on Reasonable Accommodation. (include link)

2. Preliminary Review of Employee, Student, or Visitor Concerns

Individuals who believe they have experienced discrimination and/or retaliation should promptly contact the Chief Diversity Officer at their location to discuss their concerns, with or without filing a complaint. Following the discussion, the Chief Diversity Officer will inform the complainant of the options available. These include seeking **informal**

760 **resolution of the issues** the complainant has encountered or the college conducting a full
761 investigation. Based on the facts of the complaint, the Chief Diversity Officer may also

762 1 These Procedures govern any complaint of discrimination
763 and/or retaliation, except complaints of sexual harassment and sexual violence, which are covered
764 by CUNY's Sexual Misconduct Policy. These procedures are applicable to all of the units and
765 colleges of the University. The Hunter College Campus Schools may make modifications to these
766 procedures, subject to approval by the University, as appropriate to address the special needs of
767 their elementary and high school students.

768 These Procedures are intended to provide guidance for implementing the University Policy
769 on Equal Opportunity and Non-Discrimination. These Procedures do not create any rights or
770 privileges on the part of any others.

771 The University reserves the right to alter, change, add to, or delete any of these procedures
772 at any time without notice.

773 advise the complainant that his or her situation is more suitable for resolution by another
774 entity within the University.

775 3. Filing a Complaint

776 Following the discussion with the Chief Diversity Officer, individuals who wish to pursue
777 a complaint of discrimination and/or retaliation should be provided with a copy of the University's
778 complaint form. [To the best of Plaintiff recollection, she was never offered such a form]
779 Complaints should be made in writing whenever possible, including in cases where the
780 complainant is seeking an informal resolution.

781 4. Informal Resolution

Individuals who believe they have been discriminated or retaliated against may choose to resolve their complaints informally. Informal resolution is a process whereby parties can participate in a search for fair and workable solutions. The parties may agree upon a variety of resolutions, including but not limited to modification of work assignment, training for a department, or an apology. The Chief Diversity Officer will determine if informal resolution is appropriate in light of the nature of the complaint. Informal resolution requires the consent of both the complainant and the respondent and suspends the complaint process for up to thirty (30) calendar days, which can be extended upon consent of both parties, at the discretion of the Chief Diversity Officer.

Resolutions should be agreed upon, signed by, and provided to both parties. Once both parties reach an informal agreement, it is final. Because informal resolution is voluntary, sanctions may be imposed against the parties only for a breach of the executed voluntary agreement.

The Chief Diversity Officer or either party may at any time, prior to the expiration of thirty (30) calendar days, declare that attempts at informal resolution have failed. Upon such notice, the Chief Diversity Officer may commence a full investigation.

If no informal resolution of a complaint is reached, the complainant may request that the Chief Diversity Officer conduct a full investigation of the complaint.

5. Investigation

A full investigation of a complaint may commence when it is warranted after a review of the complaint, or after informal resolution has failed.

It is recommended that the intake and investigation include the following, to the extent feasible:

804 a. Interviewing the complainant. In addition to obtaining information from the
805 complainant (including the names of any possible witnesses), the complainant should be informed
806 that an investigation is being commenced, that interviews of the respondent and possibly other
807 people will be conducted, and that the

808 President2 will determine what action, if any, to take after the investigation is
809 completed.

810 b. Interviewing the respondent. In addition to obtaining information from the respondent
811 (including the names of any possible witnesses), the respondent should be informed that a
812 complaint of discrimination has been received and should be provided a copy of the complaint
813 unless circumstances warrant otherwise. Additionally, the respondent should be informed that an
814 investigation has begun, which may include interviews with third parties, and that the President
815 will determine what action, if any, to take after the investigation is completed. A respondent
816 employee who is covered by a collective bargaining agreement may consult with, and have, a
817 union representative present during the interview.

818 The respondent must be informed that retaliation against any person who files a complaint
819 of discrimination, participates in an investigation, or opposes a discriminatory employment or
820 educational practice or policy is prohibited under this policy and federal, state, and city laws. The
821 respondent should be informed that if retaliatory behavior is engaged in by either the respondent
822 or anyone acting on his/her behalf, the respondent may be subject to disciplinary charges, which,
823 if sustained, may result in penalties up to and including termination of employment, or permanent
824 dismissal from the University if the respondent is a student.

825 c. Reviewing other evidence. The Chief Diversity Officer should determine if, in addition
826 to the complainant, the respondent, and those persons named by them, there are others who may
827 have relevant information regarding the events in question, and speak with them. The Chief
828 Diversity Officer should also review documentary evidence that may be relevant to the complaint.

829 6. Withdrawing a Complaint

830 A complaint of discrimination may be withdrawn at any time during the informal resolution
831 or investigation process. Only the complainant may withdraw a complaint. Requests for
832 withdrawals must be submitted in writing to the Chief Diversity Officer. The University reserves
833 the right to continue with an investigation if it is warranted. In a case where the University decides
834 to continue with an investigation, it will inform the complainant.

835 In either event, the respondent must be notified in writing that the complainant has
836 withdrawn the complaint and whether University officials have determined that continuation of
837 the investigation is warranted for corrective purposes.

838 2 References to the President in these Procedures refer to the Executive Vice Chancellor
839 and Chief Operating Officer and the Deans of the Law School, Graduate School of Journalism,
840 CUNY School of Public Health, School of Professional Studies and Macauley Honors College,
841 wherever those units are involved, rather than a college.

842 7. Timeframe

843 While some complaints may require extensive investigation, whenever possible, the
844 investigation of a complaint should be completed within sixty (60) calendar days of the receipt of
845 the complaint.

846 8. Action Following Investigation of a Complaint a. Promptly following the completion
847 of the investigation, the Chief Diversity Officer will report his or her findings to the President. In

the event that the respondent or complainant is a student, the Chief Diversity Officer will also report his or her findings to the Chief Student Affairs Officer.

b. Following such report, the President will review the complaint investigation report and, when warranted by the facts, authorize such action as he or she deems necessary to properly correct the effects of or to prevent further harm to an affected party or others similarly situated. This can include commencing action to discipline the respondent under applicable University Bylaws or collective bargaining agreements.

c. The complainant and the respondent should be apprised in writing of the outcome and action, if any, taken as a result of the complaint.

d. The President will sign a form that will go into each investigation file, stating what, if any, action will be taken pursuant to the investigation.

e. If the President is the respondent, the Vice Chancellor of Human Resources Management will appoint an investigator who will report his/her findings to the Chancellor. The Chancellor will determine what action will be taken. The Chancellor's decision will be final.

9. Immediate Preventive Action

The President may take whatever action is appropriate to protect the college community in accordance with applicable Bylaws and collective bargaining agreements.

10. False and Malicious Accusations

Members of the University community who make false and malicious complaints of discrimination, as opposed to complaints which, even if erroneous, are made in good faith, will be subject to disciplinary action.

11. Anonymous Complaints

870 All complaints will be taken seriously, including anonymous complaints. In the event that
871 a complaint is anonymous, the complaint should be investigated as thoroughly as possible under
872 the circumstances.

873 12. Responsibilities

874 a. Responsibilities of the President:

875 ☐ Appoint a Chief Diversity Officer responsible for addressing complaints under this
876 Policy

877 ☐ Ensure that the Chief Diversity Officer is fully trained and equipped to carry out his/her
878 responsibilities.

879 ☐ Ensure that managers receive training on the Policy. (Evidence needed that Soc Sci Dept
880 Chair received this training)

881 ☐ Annually disseminate the Policy and these Procedures to the entire college community
882 and include the names, titles and contact information of all appropriate resources at the college. t
883 Such information should be widely disseminated, including placement on the college website.

884 b. Responsibilities of Managers:

885 **Managers must take steps to create a workplace free of discrimination, harassment**
886 **and retaliation, and must take each and every complaint seriously.** Managers must promptly
887 consult with the Chief Diversity Officer if they become aware of conduct that may violate the
888 Policy.

889 For purposes of this policy, managers are employees who either (a) have the authority to
890 make tangible employment decisions with regard to other employees, including the authority to
891 hire, fire, promote, compensate or assign significantly different responsibilities; **or (b) have the**
892 **authority to make recommendations on tangible employment decisions that are given**

particular weight. Managers include vice presidents, deans, directors, or other persons with managerial responsibility, including, for purposes of this policy, **department chairpersons** and executive officers.

c. Responsibilities of the University Community-at-Large:

☐ Members of the University community who become aware of allegations of discrimination or retaliation should encourage the aggrieved individual to report the alleged behavior.

☐ All employees and students are required to cooperate in any investigation.

Executive Order 11246, as amended, prohibits discrimination in employment by all institutions with federal contracts and requires affirmative action to ensure equal employment opportunities.

Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination in employment (including hiring, upgrading, salaries, fringe benefits, training, and other terms, conditions, and privileges of employment) on the basis of race, color, religion, national origin, or sex.

Title VI of the Civil Rights Act of 1964 prohibits discrimination or the denial of benefits because of race, color, or national origin in any program or activity receiving federal financial assistance

Age Discrimination in Employment Act, as amended, prohibits discrimination against individuals who are age 40 or older.

Plaintiff was discriminated due to her age, seniority based on years of service and salary step increases through accruals of service with every year of service. Plaintiff was present on campus when her replacement information was conveyed to the on-site College Assistant. Upon information and belief Plaintiff was replaced by a younger professor with

less age-defined seniority based on cumulative years of service, possibly without a doctorate that also confers a higher starting step in salary.

Americans with Disabilities Act of 1990, as amended, prohibits discrimination due to a disability including as indicated in a recent court ruling on the basis of temporal proximal disability. In Plaintiff's specific instance as "Student" s conduct events continued escalated and worsened, unmediated by OSA, Plaintiff became increasingly more stressed and experienced heightened threat perception from unpredictable performance of "Student" conduct, unmediated by OSA's BART. Plaintiff was impelled to take 2 days of pre-announced stress-related leave, time-related absence with heightened concerns for her personal safety, on a sub-campus with sub-par safety facilities, example no turnstiles or carded entry.

Plaintiff experienced a temporal proximal disability 3/29, 4/10, leave dates occasioned by stressful conduct against her, that was unmediated by OSA, causing Plaintiff to miss work. "Student"s conduct was actively and purposefully unmediated, Plaintiff experienced "heightened threat perception" "Student aggressed upon her in 2 separate incidents in the early and late afternoon 3/27, 1 incident in late afternoon was eye witnessed by college HEO.

Details are herein included, by date sequence from first day of my courses:

Calendar -- Discrimination/Retaliation/Contractual Breach Events Spring Semester 2018

1/30 Faculty Plaintiff teaches her first class of Spring 2018. All students who have not yet done so, self-enroll in online program Blackboard and access Paper I guidelines to complete an in-class assignment -- An Early Childhood Memory. 10 Syllabus completion points automatically awarded if all guidelines, specific to Paper 1, are followed. Course Prep assignment (between class meetings) to be completed before next class, requires Students to read Syllabus inside Blackboard, engage with peers and Instructor by posting written comments about Syllabus

specifics and individually sign off agreeing they will fulfill ALL Syllabus requirements. “The Student” does not attend. Faculty Plaintiff enforces CUNY Attendance requirements. Why? All higher ed research demonstrates a positive correlation between student attendance, retention, completion and graduation without costly delays especially for under-funded public colleges including BMCC/CUNY

2/1 Plaintiff teaches her second FtF class. This is an interactive class with all attending students signed into Blackboard to follow Syllabus, work independently while interactive FTF demonstration Lecture is in progress. Q. is How did PSY become the Science of I [Plaintiff own coinage]? How did Psych. become a scientific Discipline? I ask students if they think they ‘did’ Science on our first day of class when they wrote Paper I. How? They begin a list of keywords they provide (and I assist) in their notebooks or phones to show how Psychological Science ‘gets done’ – keyword list includes observing, remembering, writing, note-taking, recording, journal, diary, personal data, memory, childhood, life stages, analysis, categories, qualitative, quantitative, metadata. Students practice role play in research. Students who did Paper I, get their Papers back with instructions to Save until end of semester. Students who just joined class, (due to BMCC President’s policy of extended enrollment at under VoE, at the expense of retention and NYS-mandated attendance requirements, complete their Paper I in the Student Lounge and in my shared Office.

2/6 Plaintiff teaches her 3rd successive FtF class. Students who attended from the first day are already becoming completing their online course prep and readings, while students who missed the 1st 2 classes (as a partial consequence of President Perez extended strategy to garner enrollment at the expense of NYState-mandated attendance requirements) these later arriving students

complete Paper 1, before or after my course hours and must catch up with online coursework, before they can move on to the next twice- weekly assignment

Course prep for next class which will be conducted online, requires Blackboard-based in-textbook research that involves close reading of pre-assigned textbook pages, picking out keywords and looking them up, for 2nd of 10 Theoretical Perspectives [TP] answering questions and posing their own questions. Students must complete TP 1, before moving onto TP2 each at their own pace but restricting delays in moving from one assignment to the next.

“The Student” does not attend. By now she has missed 1 core paper, did not show up to write Paper I outside of my class hours, missed 3 classes, 3 course preps.

All higher ed research demonstrates a positive correlation between student attendance, retention, completion and graduation without costly delays especially for publicly funded universities including CUNY. (Faculty Plaintiff views herself as a Public Citizen and a Public University Teacher.)

2/8 2/13 2/15 2/22

Students and I continue on Blackboard after our 3 initial intensive FTF classes, now for 4 contiguous online sessions dated above, to become familiar sequentially, with 4 of 10 Theoretical Perspectives [TP] in Psychological Science 2/8 2/13 2/15, which included 1 intervening CUNY holiday, 2/22 to intensively read 5-7 assigned TP pages per online session, write answers drawn from each TP reading and interact with me and with their peers on the readings of TP 3 Psychoanalytic TP 4 Behaviorism TP5 Cognitive. TP 6 Social Cognitive.

“Student” did begin to attend 2/9, 1 day late, + missing her first three classes. It is a benefit of Blackboard 24/7 access, very valuable for CUNY students many of whom have to work to pay their way and earn their livelihood, (just as I, Plaintiff did, as a foreign student at Columbia U)

after missing successively, 3 FtF classes at the start of the Spring semester, to commence and complete assignments. “Student” signed the required agreement to fulfill all syllabus coursework, accessible at any time on Bb. However, she did not and never did submit the first assignment of the first day of classes, Paper I. Paper and its sequel Paper II cumulatively account for 25 % of a course grade. “Student” was offered numerous opportunities and reminders to do so, on campus, outside of class hours, as all students did, (see above) if they missed the first day of classes. The archived Blackboard course (available during Discovery) for my Spring 2018 classes will show that this student began to do less and less work to fulfill twice-weekly online course prep assignments (between in-class interactive instruction that involved role play, scripting and other and she attended FtF classes infrequently.

2/27 – Students and I return to FtF classes for the remainder of the semester that ends **5/17**. Plaintiff was by then terminated **5/11** but continuing to fulfill her professional responsibilities.

In this **2/27** FtF session, 36 minutes of **2/27** class time go to students describing their online classwork pros and cons, while reading aloud their entries on Blackboard to their peers. Many were surprised that Psych had so many “theorists.” # said they thought before they started the course Psych was “much simpler” 2 students said they thought Psych was about psychologist’s “mind-reading” and helping people with problems including criminality. 37 minutes were given to interactive, partly demonstration Lecture on TP Humanistic as I have never in 40 semesters of teaching stuck my students in front of Powerpoint slides and have them passively copy from them. Videos are also assigned for online course prep outside of FtF classes. In the last 3 minutes of class, while I was engaging with students in the left half of class, “The Student” said loudly “You suck. You don’t know anything.” For what seemed like an endlessly long minute, I saw my new students whom I was just beginning to get to know, look at me, waiting for me to respond. I was

1007 momentarily shocked into silence in the middle of what I was saying to another student. Culturally,
 1008 as an Asian Indian, I remained silent, too shocked to speak but trying to avoid making the situation
 1009 worse in front of students who were looking on and whom I was just beginning to get to know.
 1010 “Student” s cold, hostile demeanor struck me, a psych teacher for 20 years, as unusual, not the
 1011 norm, in a classroom.

1012 **2/27** Plaintiff received an email from Defendant Bishop “making a ‘change to your
 1013 schedule’ are grounds for non-reappointment.” She attached a letter dated 2/25 from Defendant
 1014 McKain, whom I have never met, complaining about my online classes, she further claimed to
 1015 Defendant Bishop in the email she could not reach me even though we are all on the same server
 1016 we all share! I easily found her on the College list serv, it’s very accessible and helpful.

1017 **2/27** Defendant Bishop changes her phrasing from “grounds for non-reappointment” to
 1018 “if this is correct, then this is unacceptable.” She requires an “immediate assurance’ to
 1019 teach ‘all classes FtF. It may be noted that the classes are cataloged for BMCC students as “Lecture
 1020 Format” not FtF. Nowhere in the catalog are they referred to as FTF, but as Lecture Format. I had
 1021 no difficulty giving her the “immediate assurance” she sought, in fact I was delighted and relieved,
 1022 same day 4 hours later, before leaving my Inwood campus upon completing my “professional
 1023 hour” on my campus.

1024 **2/27** I, Plaintiff write the following “immediate reassurance” that Defendant Bishop
 1025 requested

1026 “Subject:” “FtF classes will continue”

1027 As stated, FTF classes will continue as they have from the very first day of the semester.”

1028 Despite the “immediate assurance” I provided to all Defendant recipients, the union, and
 1029 the CDO, Defendant Bishop ignored my “immediate assurance” gave me no indication whatsoever

1030 that she wanted me to provide additional serial reassurances in person (I have only seen her once
 1031 in 20 years) by telephone, on email, on Twitter (!) to calm her. This autocratic overkill response
 1032 is precisely what got her into trouble in Trujillo v BMCC case SDNY 2016 wherein Defendants
 1033 President Perez and Social Sciences Chair Bishop’s pleadings were dismissed with Prejudice. I
 1034 will stand corrected, if I have misread that case brought by my adjunct faculty comparator in 2016
 1035 (never met him) during a period when BART already in place for 4 years, since 2012.

1036 **2/27 Plaintiff asserts** Declining to acknowledge and act constructively, as per PSC union
 1037 contract provisions, following my immediate turnaround written “assurance” that she herself required
 1038 me to provide, Defendant Bishop demonstrates she **violated Article 20.1 Intent** as herein quoted
 1039 Contract PSC union Article 20.1 **Intent:**

1040 The parties **agree to use** their best efforts **to encourage the informal** and prompt **settlement**
 1041 of complaints and grievances which may arise between the PSC, the employees, and the
 1042 University.

1043 The orderly processes hereinafter set forth will be the sole method used for the **resolution**
 1044 of all complaints and grievances.

1045 Plaintiff asserts the violation by the Chair of the Social Sciences Department of a CUNY -
 1046 wide collective bargaining agreement, is the complete denial of **“informal”** processes and “prompt
 1047 settlement” as stipulated above in Article 20.1 Intent. Defend Bishop chooses Retaliation against
 1048 my protected activity as a Faculty member under union-protected contract for the semester, but
 1049 Retaliation for my union activities in general during a College reaccreditation process through
 1050 Middle States (details below under “whistleblowing activities”)

1051 I emailed Defendant McKain letting her know I had no trouble finding her on our server
 1052 and asked her, in my email if making a person “invisible” was how she preferred to interact. I
 1053 received, no reply. “The Invisible man” is a landmark in Black literature and now here she is,

1054 turning around and making me a brown AAPI immigrant “invisible”. This points to an under-
 1055 played instance of systemic, structural racism that frequently goes unacknowledged and
 1056 unchallenged at BMCC.

1057 **3/6** Peter Roberts, a parttime student adviser on my campus, who unbeknownst to many of
 1058 us, was already terminally ill, informs me in person and I confirm in writing our face-to-face
 1059 conversation that he has met with Student **3/6**, “Student” will no longer be attending my class.
 1060 Roberts a respected, beloved friend once said to me “I’ll be lucky if I ever get out of here alive,”
 1061 He did not. He died in service at BMCC. If a Black professional with an observable ocular
 1062 disability can be made by BMCC to feel this way, Plaintiff’s heartfelt question is Who is exempt
 1063 from an unchallenged racialized discriminatory environment? A brown Asian female immigrant,
 1064 in late adulthood, who is in a minority among minorities, a pro-equity and professional parity
 1065 union activist, persevering in whistleblowing on discriminatory retaliation and exclusion,
 1066 ultimately ending in termination?

1067 The **3/6** decision by Peter Roberts, to make an alternative arrangement, 3 weeks later, right
 1068 around VoE submissions by faculty to the Registrar re: “Student”, was overturned ...by whom?
 1069 Discovery, following my pleadings herein, may yield an answer. “Student” continued to be
 1070 allowed to attend despite her serial continuation of conduct events.

1071 **3/12** Defendant Bishop, to her credit, herself says in an email to Defendant Wentworth “I
 1072 am a little confused. What you are saying seems to imply that she (“Student”) can continue in the
 1073 class she is currently in.”

1074 “Student” Conduct is explicitly stated to be under BART purview, managed by Defendant
 1075 Wentworth, his job title is Student Life Manager for Student Conduct and Academic Integrity

1076 **3/13** Defendant Wentworth writes to Defendant Bishop and several named Defendants, but
1077 never communicates with me until Spring Break **4/6**, though I have emailed him serially since
1078 February. **Defendant** Wentworth states:

1079 ...”as far as the student conduct portion” [Plaintiff emphasis added!] **the case is closed** He goes
1080 on to write. **“I** have no say as to whether a student can return to a class academically.”

1081 Fact is, “Student” conduct is neither under Defendant, Chair of Social Sciences Bishop’s
1082 purview, nor under SocSci Faculty Plaintiff’s purview, as BART, under Defendant Wentworth,
1083 has oversight of ALL conduct of ALL students, including, of course “Student.” No students’
1084 conduct is exempt from BART purview.

1085 **3/13** “Student” arrives punctually has not prepared her reading on Research Methods,
1086 leaves and re-enters class several times, distracting other students and me, returns at one point with
1087 a considerable amount of loose toilet paper which toilet paper “Student” models into shapes on her
1088 desk. Finally, exits class 25 mins early, I ask her to print her name in the Attendance roster, I give
1089 her only partial attendance for the in-class period. I enforce NYS mandated attendance as ALL
1090 faculty are required, no exceptions, to C&P NYS mandated ATTENDANCE requirements, into
1091 their Syllabus. President Perez in contrast tout’s enrollment at the expense of attendance, a focus
1092 that wreaks havoc on Student attendance. (see VoE Roster for Spring 2018) in this pleading. Note:
1093 Plaintiff whistle-blows this procedure of enrollment v attendance in an attempt to enforce NYS
1094 mandated attendance requirement C&P in each Faculty syllabus. VoE was the centrepiece of
1095 President Perez’ strategy to increase enrollment, at the expense of attendance. It disrupted students
1096 who were trying to attend class from the very first day of classes, while other students were caught
1097 up in late enrollment (meaning they missed classes, found they could not make up the work of
1098 those classes and dropped out of a course) Let me take the example of Spring 2018. Classes,

1099 meaning Attendance began **1/27**, mine began **1/30**, **however** Registrar was asking faculty for
 1100 enrollment on students who had never attended even 1 class between **2/20 and 3/2**! In other words,
 1101 a student could attend just 1 class or even perform 1 related academic activity and be considered
 1102 for a Federal PELL! Students could attend 1 class or related activity and be considered as being in
 1103 Attendance, however it was carefully called enrollment, not attendance. It seemed like a scam
 1104 that benefited the President but disrupted Syllabus delivery and student attendance for more than
 1105 **4 weeks**. but what was so troubling is that the students who attended from the first day and did
 1106 work from the very first day had to deal with class disruptions as other students entered and left as
 1107 part of an extended enrollment process. In effect a student was considered to be in attendance if
 1108 they attended once in more than 4 weeks! It was due to these staggered disruptive late enrollments
 1109 that I assigned work on the very first day for which students received points counting towards their
 1110 final grade, from DAY 1, and after 3 intensive face to face classes, Plaintiff spared regularly
 1111 **attending** students from the enrollment gyrations of late **enrolling** missing-class students by
 1112 intensifying reading assignments and written submissions work online. It also significantly helped
 1113 late enrolling students to go online and begin working without losing time in travel and snow
 1114 disruptions delays, typical of Spring semester, including in Jan-Feb of Spring 2018.

1115 **3/12** Defendant Wentworth, by now Plaintiff's own personal favorite Crown Prince
 1116 Autocrat of BART, writes to Defendant Bishop but declines to cc me, (I know about this **3/12**
 1117 email only AFTER my service is terminated, my exclusion maybe because I don't count, I am
 1118 adjunct contingent brown immigrant who persistently engages in her protected whistle-blowing
 1119 activity to challenge a racialized, hostile work environment and protected activity.

1120 **3/13** Defendant Wentworth using BART mechanism states he **"closed case"** **"quickly"**
 1121 **even** while emails are flying between departments about how best to address above referenced

1122 “Student” needs.! “Student” is frequently absent and missing work she had agreed to do, and
1123 signed up to do, per our Syllabus. Defendant Wentworth closes “case” he has set up, no student
1124 of mine is ever reduced to a “case” in attendance rosters or syllabus materials and course delivery,
1125 Defendant Wentworth of his own accord, opens up “a case” then “closes it” “quickly”, does not
1126 inform me directly but informs Chair Defendant, who in turn fails to inform me about a crucial
1127 decision taken by OSA under BART that negatively and discriminatorily impacts both “Student”
1128 and Plaintiff . Because the Department Chair Defendant Bishop does not inform me of a crucial
1129 decision, I inform her supervisor Provost Defendant Wilks. My action will count as 1 of several
1130 of my whistle blower instances of inequitable action and wrongdoing, against both Student and
1131 Plaintiff. The **conduct issue that impedes “Student” success is not resolved on this crucial**
1132 **date 3/13**

1133 **3/13** On the very day that Defendant Wentworth “closed the case” “quickly” “Student”
1134 attends class, arrives punctually, leaves, re-enters classroom 3 separate times during a whole-class
1135 discussion, returns with a substantial amount of loose toilet paper that she proceeds to turn into
1136 shapes on her desk. Exits class 25 mins early without signing roster. As she is about to leave, I
1137 remind her to sign the attendance roster by the exit door. She does. I award her partial attendance,
1138 will be added to other partial attendances, to calculate attendance of all students.

1139 **3/12** Defendant Salam announces Adjunct Faculty workshops. Subsequently Defendant
1140 Salam announces that these workshops stand canceled for lack of rsvp’s indicating interest from
1141 adjunct faculty!

1142 **3/12** Defendant Salam in same email says “the College has made some changes in the last
1143 year (2017). Adjunct faculty and Plaintiff are hearing these for the first time about changes made
1144 last year! She states Any additional absences will result in a reduction in your pay for the missed

course. This is a policy that has always been on the books (Plaintiff asks What books?), but the College is now keeping track.... If a class (face to face class) is not held in person, that will count as an absence. Plaintiff asserts Nowhere in Defendant Salam's memo to ALL adjuncts does she state that any absence, especially causally related stress response to Student serial conduct events, would lead to termination of employment. FMLA itself would prohibit such an action.

Plaintiff notes that missed classes (in my case emergency leave that was preannounced, to my Students, onsite staff and Department) are not stated by Defendant Salam as leading to Termination! Missed classes lead to salary cuts, NOT termination. Upon information and belief, no other faculty comparators were terminated or even lost pay, due to an absence. The termination is especially ironic and does amount to targeted discriminatory retaliation for whistleblowing activities dating back to 2017 and earlier., as I have never taken even 1 leave since commencing my service to BMCC in Spring 1998.

Partial List of Whistle Blowing protected union activities since Plaintiff's **Spring 1998 start of BMCC service, that are causally related to Retaliation by Termination 5/11**

1. Obtains free scan forms for adjunct faculty 1998 to achieve parity with Full time faculty.
2. Obtains Computers in Adjunct Faculty Office, on an adjunct faculty-signed petition, presented by Plaintiff to then Vice President
3. Emails President Perez that if he wants to create an environmentally sustainable BMCC campus as he claims he does, he can direct every department printer to be set on long edge option so that printing can default to double sided printing to save trees! Defendant Perez thanks me with a nice reply saying he will tell "Cabinet" about my suggestion
4. Queries Defendant Perez' handpicked Faculty Dean why online classes cannot be taught through Peer faculty mentoring, which strengthens Faculty peer professional exchanges around Syllabus

delivery, a suggestion that was cc'd simultaneously to union President, Professor Bowen, English Department, Queens College union President often argues against what she calls “micromanaging” of the faculty enterprise by administration. **5.** Queries Defendant Bishop as to Plaintiff’s interest in serving without pay on Academic Integrity committee/ working group, Defendant ignores Plaintiff’s request **6.** Queries Defendants Wilks and Defendant Perez about Plaintiff request to serve without pay on Equity and Inclusion Task Force, learns that faculty comparators among adjunct faculty are totally excluded.

7. Plaintiff queries Vole/CoA approach to Enrollment conflated as Attendance as ALL Faculty are *mandated* to Copy and Paste NYS *attendance*, requirement, not enrollment, into their Syllabus.

8. Plaintiff Whistle blows OSA’s BART failed process to manage “Student” conduct, informs Plaintiff ‘s department namely Social Sciences, headed by Defendant Bishop, Office of Human Resources, (OHR) headed by Defendant Diaz, Academic Affairs, Defendant Wilks, Provost, email Office of Chief Diversity officer, emails PSC union to assert Faculty grievant rights **9** Plaintiff queries Soc Sci and Academic Affairs about SEMESTER-LONG non delivery from **2/27 - 5/7** of hard copy mail to uptown campus as retaliation. most competently prior to my whistle blowing activities especially in Spring 2018, across Department and Offices in connection with accreditation activities, enrollment v. Attendance activities **10**, At or upon termination 5/11, Plaintiff was on her uptown campus when the call came through to the onsite College Assistant assigning, upon received information and belief, my Fall 2108 courses to a younger

1190 faculty at a lower salary step, fewer years of age-related seniority, therefore a cheaper
1191 “hire”, an ADEA- violating retaliation.

1192 **3/18** Following above-described serial in-class conduct events, I send a Letter of Complaint
1193 to name Defendant President Perez, drawing his attention, to a “racialized, hostile work
1194 environment with targeting by age, ethnicity, national origin, of the Complainant.” I As a member
1195 of Adjunct faculty I had less protection to even make such a complaint. I fearlessly do. However,
1196 the situation had become almost intolerable by discriminatory action by both OSA and Soc Sci.
1197 My letter receives the attention of the Diversity Officer, as is required by law and The City
1198 University of New York Policy on Equal Opportunity and Non-Discrimination. BMCC is
1199 mandated to follow a multistep procedure to address and redress a Discrimination Complaint.

1200 [Excerpted text inserted herein focuses on my proximate comparators, contingent labor adjunct faculty
1201 **Date of Letter of Complaint: March 18, 2018**

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From:	To:
Name of Complainant:	Name of Employer: BMCC
Dr. Chitra Karunakaran, Ed. D.	Dr. Antonio Perez, President
Contingent Faculty	Odalie (sic) Levy, Esq. Diversity
Social Sciences	Officer
CUNY In the Heights Campus	199 Chambers Street
5030 Broadway	New York, NY 10007
Room I – 104	
New York, NY 10034	

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Complaint Letter addressed to College President, Defendant Antonio Perez and Chief Diversity Officer
This Complaint Letter is Retaliated by Defendant Perez with his Termination letter 5/11, 3 months before CDO
investigation of my Complaint.

Title: A Hostile Work Environment

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My Complaint Letter is text-specific, data-driven and evidence based, focusing on BMCC admin.’s covert, ad
hoc/post hoc mode of organizational dysfunction resulting in a generally unchallenged racialized, ageist hostile
work environment for Contingent academic labor. Control v Content admin. mode of daily operations **places**
student-centric faculty professionalism as admin.’s lowest possible priority.

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1228

2-tier segregated and embedded Faculty structure of lack of equity, inclusion and patterned discrimination against
Contingent labor who are de facto majority academic labor at the College.
blatant, sustained, patterned wage-income inequality, services/benefits inequality.

college admin.'s demand, in a repeated pattern, for unpaid work from Contingent labor.
denial of opportunities for full college service to students, by Contingent labor.
exclusionary tactics against Contingent labor in faculty governance, including during the Middle States re-
accreditation process.
patterned instances of failure to permit Contingent labor to initiate and implement faculty-driven adjudged best
professional practices for syllabus delivery and student-centered learning outcomes.
arbitrary requirement for submissiveness and subordination by Contingent labor to frequently covert, lurking
admin., coercive punitive ad hoc/post hoc control of all Faculty including Contingent itinerant labor, conduit for
such control is departmental chair proxies and designated surrogates.
patterned lack of facile communication strategies and transparency on the part of admin. in policies and
procedures particularly in matters of contingent faculty professionalism curriculum and syllabus delivery.
the issuance of an open emailed threat of non-reappointment, sent by the Social Sciences Department Chair to
multiple recipients without prior information to the aggrieved, explicitly undertaken in violation of due process,
and to cause sustained emotional distress through targeting for public humiliation of the above-referenced
aggrieved Complainant., denying due process.
Note: a maximum of 4 days of (unpaid) medical leave from teaching is requested by Complainant, to ameliorate
the effects of Complainant's emotional distress and humiliation, occasioned by the threat of non-reappointment,
by admin. surrogate Department Chair, Social Sciences,

All of the above are identified as intentionally patterned constitutive structures, practices and processes of BMCC
admin. and surrogates/proxies that in combination have created a racialized, hostile work environment at the
college with targeting by age, ethnicity, color and national origin, of the Complainant, in her capacity as Contingent
labor, hired in Spring 1998, based on her credentials of a Columbia University doctorate in multidisciplinary social
sciences and international education, and these credentials and competencies have been proven and tested in
Complainant's continuous unblemished service to BMCC students since Spring 1998.

3/20 CDO Levy confirms she will meet me by telephone **3/21** to discuss my **3/18** complaint
of a Hostile work environment in which racially charged interactions go unchallenged or are made
worse by negligence embedded in inter-departmental "turf" battles, to the detriment of both
"Student" and "Plaintiff." The remarkable email of **3/22** (below) sent by Dean Wong of Academic
Affairs is thoroughly circumvented by Defendant Wentworth of Student Affairs.

3/22 Dean Wong blows open Defendant Wentworth 'case closed" "quickly" strategy by
ordering a class observation of my Midterm Review class, critically important syllabus delivery

1269 date for both Plaintiff and ALL students. “Student” does not attend a critical Midterm Review
1270 class by the entire class (Attendance Record signed by Students available for 3/22)

1271 In Plaintiff’s private and hitherto unexpressed analytical view this BART Defendant
1272 urgently needs a “Me Too” moment in race relations. Defendant Wentworth states earlier that
1273 “Student” does not have the same racialized reaction or general animus towards himself or Peter
1274 Roberts! Q. So is BART Defendant claiming “Student” cannot possibly have discriminatory racial
1275 animus against Plaintiff at the moment she mockingly and with a coldly hostile demeanor racially
1276 profiles Faculty Plaintiff, upon seeing her for the first time with “You suck. You don’t know
1277 anything.” Repeats that same assertion 2 more times in class, growls at Plaintiff and physically
1278 aggresses her twice. Student’s first conduct event occurs seeing her, not even actually meeting her,
1279 just seeing face to face, for the very first time. This “Student” repeats this mocking assertion, with
1280 a coldly hostile demeanor, 2 more times during specific moments in subsequent face to face class
1281 sessions.

1282 3/22 A pivotal date ordered by Dean Wong, Vice President of Academic Affairs, AAPI
1283 Dean explicitly names and tasks Defendant Ian Wentworth to arrange for “The Student” to be
1284 observed, on the date of my Midterm Review. The Student did not appear. Dean Wong’s directive
1285 is strongly worded

1286 “The disruptive behavior being described warrants intervention by Mr. Ian
1287 Wentworth in Student Affairs, who handles student behavior issues. By way of cc, I am
1288 alerting him, and he will act accordingly.”

1289 The “Student” does not appear for her Midterm Review class. Q. Was she alerted to not
1290 appear on the day a class observation of a crucial Midterm Review class is scheduled? Discovery
1291 may yield the answer.

1292 (A projected Motion to Compel Discovery will attempt to find some answers from
1293 OSA/BART and in particular Defendant Wentworth)

1294 Plaintiff wonders Why didn't Defendant Wentworth follow up and complete the task Dean
1295 Wong had assigned him? Why didn't OSA set up another observation the next class **3/27** so that
1296 observational data could be gathered by OSA's own BART mechanism for follow up to facilitate
1297 the **success** of "The Student" who was impeded by her own conduct issues?

1298 **3/27** During Midterm Exam [Incident #1] "The Student" growls at me and snatches her
1299 exam + scan form from my hand. All other students present to take Midterm exam, cooperate by
1300 passing exams down their respective rows

1301 After conclusion of class and Midterm Exam, [Incident #2] "Student" comes to my office
1302 after all students have dispersed, (except 3 late students) directly from class. "Student" suddenly
1303 steps towards me, loudly says "Gimme that" and attempts to grab her scan form and all students'
1304 scan forms I am holding in both hands. She makes the grab after I have stated her tallied score.
1305 She has failed her midterm, as she has also not submitted Paper I. Eyewitness is HEO a with
1306 whom I have had interactions on an almost daily basis, all semester, very pleasant, competent
1307 caring and cooperative professional on whose desk I hastily place all my students scan forms.
1308 This new HEO hire, from whom I will expect to seek eyewitness testimony, (during Discovery),
1309 if my pleadings survive dismissal. This eyewitness is understood to be supervised by named
1310 Defendant Antonette McKain.

1311 After physically aggressing me "Student" exits rapidly. Neither the HEO who is part of
1312 BMCC administration, nor I, call Security.

1313 4/6 Defendant Wentworth, in an email FW by him over Spring Break following Midterms,
1314 **directed** only to me, **no cc's to Defendants** "The case was closed rather quickly after being
1315 reported.... I was under the impression that Professor Bishop was following up with you..."

1316 3/29, 4/10 I pre-announce 2 leaves of absence, for the first time in 20 years of uninterrupted
1317 assignment. I inform my classes that I will be away due to "health and safety concerns", I ensure
1318 that my students in all sections learn directly from me on Bb while also informing Social Sciences
1319 in advance. Although I report the 2 incidents to OSA and Social Sciences I am not informed that
1320 any action is taken re: the 2 incidents by either OSA or SocSci.

1321 The CITH -- CUNY In the Heights sub-campus -- where I teach has sub-par security
1322 arrangements, not even turnstiles for pause and swipe entry. I am not certain I can be safe, as I
1323 have heard nothing from OSA or Soc Sci. This off-site campus has nowhere near have the same
1324 level of security arrangements as the Campus where ALL the Defendants sit! Plaintiff's
1325 observation in this court "What you stand for, depends on where you sit."

1326 3/39 & 4/10 The Chair Defendant Bishop, as part of her stated job responsibilities, must
1327 assign a pre-announced leave replacement, whether paid or unpaid but she does not do so,

1328 4/18 Defendant Salam email to Plaintiff, objects to my 2 preannounced absences -- **causally**,
1329 **temporally and proximally related** -- to OSA Defendant Wentworth's serially discriminatory
1330 negligent actions re "Student" conduct, of her mocking verbal abuse (3) separate instances 2/27,
1331 3/27 hateful coldly hostile demeanor, 2/27/ 3/27, growling 3/27, snatching scan form and exam
1332 3/27, attempted grabbing of scan form in Faculty office 3/27 (eyewitness)

1333 Plaintiff suffered escalating stress and heightened threat perception took these 2 emergency
1334 absences after 20 years' of never taking a day's leave from College service. Plaintiff suffered a
1335 **temporal disability** causally related to unmediated conduct activity that was under the job-

1336 described purview of Defendant Wentworth in his capacity as “Student Life Manager for Student
1337 Conduct and Academic Integrity.”

1338 **4/21** Plaintiff alerts Defendant Salam, Defendant Wentworth (and specific other upper-level
1339 functionary Defendants) that in **April** alone, “Student” has missed attending class **4/12, 4/17, 4/19,**
1340 **not including the first 3 classes,** in substantial excess of NYS mandated Attendance requirements.

1341 **4/23** Plaintiff emails Defendants and non-Defendants in OHR (under Defendant Diaz, labor
1342 designee), SOCSCI, OSA requesting an update from OSA on “Student” who has not returned to
1343 Class or completed any assignments. She has unofficially withdrawn (WU) since **3/27** Midterm
1344 Exam.

1345 **5/7** Defendant Salam email for the first time describes “Student” conduct (that she knows is under
1346 OSA purview and decision making), as a “classroom management” issue of Plaintiff. Defendant
1347 Salam patently asserts falsely. If it were a classroom management issue, decided by any Faculty,
1348 why is there a BART? And why is there no issue regarding any other students in my classes?
1349 “Student” conduct is unequivocally within OSA’s BART purview. BART has job titles
1350 specifically related to Student **conduct. Defendant Wentworth explicitly self-stated job title in**
1351 **emails to me state him to bear the OSA job title “Student Life Manager for Student Conduct**
1352 **and Academic Integrity”.** NO faculty bears such a title! BART personnel get paid to, hopefully
1353 help students manage their conduct so they become successful learners. Adjunct Faculty are
1354 charged to deliver an exciting interactive, data-driven (for Pathways Science) Syllabus of their
1355 making as per The Adjunct Faculty Handbook, with Department oversight. OSA are charged to
1356 **manage all Students’ conduct** with rules of their making presumably with the oversight of Office
1357 of Student Affairs (OSA)

1358 In this specific context of student conduct v. Faculty Syllabus-delivery responsibility that Plaintiff
1359 presents below a remarkable parallel to Plaintiff Karunakaran's experience as per the First Cause
1360 of Action in her Amended Complaint:

1361 Plaintiff presents these remarkable parallels, brought by a faculty comparator against my own
1362 Department just 2 years before my "non-reappointment,"

1363 *Trujillo v. BMCC CUNY 1:15-cv-10582 2016*

1364 Spring 2016 in a case that Plaintiff, whom 1-2 students targeted as White, but self-ascribed as
1365 Latino, alleged racial discrimination in employment against Defendant Bishop and Defendant
1366 Perez. That Plaintiff's employment was terminated, after he called Security to remove a Student
1367 from his class.

1368 *His* student earlier, "called him a d.....k" in front of his entire class.

1369 *My* student said "You suck. You don't know anything." accompanied by a hateful, coldly hostile
1370 demeanor."

1371 That Plaintiff was escorted out of his class by BMCC Security, as directed to do so, by the College,
1372 BMCC, sometime after he had called "Security" on a Student.

1373 My parallel observation, from this distance in time, upon learning of this case is that if I had called
1374 Security on a student conduct issue under OSA purview, I would almost certainly have been
1375 escorted out of my class by Security, as happened to my faculty comparator whose protected
1376 characteristics were different than my own. He brought his own lawsuit in 2016 when that faculty
1377 comparator was teaching during the same period that Plaintiff Karunakaran was teaching.

1378 Both Faculty Plaintiffs were terminated in different academic years, just 2 years apart! After they
1379 cited concerns about student conduct, in acts of retaliation causally related to Student conduct
1380 while BART was and still is, in charge of Student Conduct and in addition "Academic Integrity."

At that same time and in all relevant times including the period Spring semester 2018 BART was in operation. BART was established in 2012.

5/11 Defendant Perez issues to Plaintiff, Letter stating “non-reappointment” of Plaintiff.

Plaintiff’s Notes on her Comparators

Plaintiff’s proximate and ultimate comparators are ALL faculty, we teach the same students, though many thousands are paid less per course; we teach syllabi reviewed by Departmental Chairs; we have membership in respective Departments, whether we teach Physics or Business or Social Sciences; we submit semester grades to the same Registrar and we are required to submit concerns about Student conduct, since 2012, to the BART mechanism under Defendant Wentworth within the Office of Student Affairs.

It is practically impossible to adjudicate, but not practically impossible to adduce that Faculty Plaintiff was objectively treated less well or less fairly than similarly situated faculty. However, Plaintiff has 1 direct evidence record from personal experience of 1 such disparate impact when she was informally approached by a full-time faculty, a comparator in Psychology, Plaintiff’s discipline, to cover her evening classes on another CUNY campus, as this colleague, acquaintance and comparator needed to undergo surgery. She sent Plaintiff an email about her classes which were 2 double classes for each of her 2 courses on one evening at an uptown CUNY campus college.

Plaintiff was excited to cover her comparator’s classes because it is always interesting to see if I, Plaintiff, can better my own practice by interacting with other students on a different syllabus within the same Discipline, Psychology.

This faculty comparator told me I could “let them go after 1 hour.” for each set of students!

1404 Plaintiff replied that she could not do that and would deliver comparator’s syllabus, for the
1405 entire duration of each time segment. not merely 1 hour. I also disappointed my comparator’s
1406 students who protested to me ‘my teacher allows us to go after 1 hour.’ of a 2 hour and 30-minute
1407 course, for each set of students.

1408 Plaintiff conveyed this instance to Defendant Bishop without naming my comparator who did not
1409 belong to my race, ethnicity national origin or age, This instance of disparate impact becomes
1410 part of my allegation of my pretextual termination based on the fact that I taught 4 classes online
1411 out of 32 classes and took 2 days’ as a result of serial conduct acts, in my classroom and my shared
1412 office by 1 “Student”, and that “Student”’s serial conduct was serially unmediated by **Defended**
1413 **Wentworth** in his job-described service capacity as “**Student Life Manager for Student**
1414 **Conduct and Academic Integrity**”

1415 I reported this experience to my Department Chair, Defendant Bishop, while I was being
1416 emailed repeatedly and punitively for teaching 4 out of 32 classes online during a highly disruptive
1417 extended enrollment (Enrollment is NOT Attendance! Defendant Perez, President obfuscated this
1418 distinction, possibly for accreditation period that in Spring 2018 (coincided with and was
1419 orchestrated through intense Middle States accreditation efforts by the President, Defendant).
1420 Case in point is the VoE/CoA process that affected all comparators’ Syllabus delivery. However,
1421 it appears to be in violation of mandated attendance requirements of NYS. In this process in Spring
1422 2018 we faculty comparators were required to verify attendance through VoE if any student
1423 attended just ONCE! The second checking period indicated was from 2/20 to 3/2, 4 weeks after
1424 classes began!

1425 In yet another comparator instance in a prior semester, of being treated less fairly the Chair
1426 directed/advised a student to seek an independent study under my supervision. In a truly collegial

1427 environment, I would have loved to meet this student’s academic need and would enjoyed reading
1428 and meeting her on her research. Such a collegial environment is not promoted at BMCC, The
1429 Chair did not directly approach me. She had the student approach me. The student explicitly
1430 informed me the Chair had so directed her. The Defendant Rifat Salam, her Deputy, was then put
1431 in charge of damage control! I am reasonably certain that I was treated differently than my adjunct
1432 faculty comparators, and my fulltime comparators, the preponderant majority of whom do not have
1433 membership within my protected characteristics.

1434 Despite structural inequities in employment Plaintiff’s comparators are dedicated to seeing their
1435 students succeed. We share common goals to help students. The real issue is whether faculty, no
1436 matter their protected characteristics, can rely on behavioral guidance for students from the
1437 administration. Or will admin, lack the competence and the will to deliver student support services
1438 at the same time as the Professor is delivering the Syllabus to all students without a discriminatory
1439 practice that **causally** produces a wholly preventable discriminatory employment outcome based
1440 on race, age, retaliation, contract breach.

1441 [1] CUNY own EO and ND policies were violated both specifically and generally. My
1442 employment was terminated while CDO was still setting up interviews with me! A complaint form
1443 is mentioned, but to my best recollection was never made available to me. If there was a report, I
1444 never saw it.

1445 The non-reappointment was **pretextual**, as my wide-ranging whistleblower activity across
1446 departments and functionaries, in particular my sustained engagement with BART on
1447 discriminatory negligence in the matter of conduct management issues impacting “Student”.
1448 Plaintiff resisted disruption of her Syllabus delivery of a Pathways Psychological Science STEM

1449 course while at the same time actively seeking cooperation from BMCC, for a Student who like
1450 all students had the potential to succeed.

1451 Defendant Perez' retaliatory, discriminatory, non-reappointment action is the focus of my
1452 Amended Complain presented herein.

Respectfully submitted,

Signed: /s/Chitra Karunakaran

(Dr. Chitra Karunakaran Ed.D.)

Date April 30, 2021

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